

Peterson Engineering Company and Connecticut Laborers' Funds a/w Laborers' International Union of North America, AFL-CIO. Case 34-CA-5337

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On March 9, 1992, the National Labor Relations Board issued a Decision and Order, *inter alia*, ordering Peterson Engineering Company, the Respondent, to make whole its unit employees by making all contractually required fringe benefit fund contributions which had not been paid to the funds on behalf of its unit employees as a result of its unfair labor practices in violation of Section 8(a)(1) and (5) of the National Labor Relations Act.¹ On October 6, 1992, the United States Court of Appeals for the Second Circuit issued its judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due each of the funds as of March 31, 1993, the Regional Director for Region 34 on May 24 and July 15, 1993, issued a compliance specification and an amended compliance specification, respectively, alleging the partial reimbursements due under the Board's Order up to March 31, 1993, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification and the amended compliance specification, the Respondent failed to file an answer.

By letter dated August 3, 1993, the Regional Office advised the Respondent, that no answer to the amended compliance specification had been received and that unless an appropriate answer was filed by close of business August 6, 1993, summary judgment would be sought. The Respondent filed no answer.

On August 13, 1993, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On August 17, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the amended compliance specification are therefore undisputed.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specifica-

tion. Section 102.56(c) of the Board's Rules and Regulations states:

If the Respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the amended compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the amended compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the fringe benefit fund contributions owed the funds through March 31, 1993, are as stated in the amended compliance specification and we will order payment by the Respondent to the funds of those amounts, plus interest accrued on those amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Peterson Engineering Company, Milford, Connecticut, its officers, agents, successors, and assigns, shall pay each of the funds named below the amounts following their names, plus interest:

Connecticut Laborers Health Fund	\$9,373.60
Connecticut Laborers Pension Fund	5,362.40
Connecticut Laborers Annuity Fund	5,418.40
Connecticut Laborers' Legal Services Fund	172.40
New England Laborers Training Fund	690.80
Total	\$21,017.60

Dated, Washington, D.C.

September 16, 1993

James M. Stephens, Chairman

Dennis M. Devaney, Member

John Neil Raudabaugh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ 306 NLRB No. 126 (not reported in Board volumes).